

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DANIEL RHYMES PETTY,

Plaintiff,

v.

ORDER

BEST WESTERN HOTEL and BEST WESTERN  
INTERNATIONAL, INC.,

24-cv-70-wmc

Defendants.

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Plaintiff Daniel Rhymes Petty, who is representing himself, has filed a lawsuit alleging that he was injured after slipping and falling on ice in a Best Western parking lot in Wisconsin Dells, Wisconsin. Because Petty is proceeding without paying the filing fee, the court must screen his complaint and dismiss any portion that is legally frivolous or malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915(e). After reviewing Petty’s complaint, the court cannot determine whether it has subject matter jurisdiction over Petty’s claim.

“Federal courts are courts of limited jurisdiction.” *Qin v. Deslongchamps*, 31 F.4th 576, 582 (7th Cir. 2022) (citation omitted). Because jurisdiction is limited, federal courts “have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” *Word Seed Church v. Village of Hazel Crest*, 111 F.4th 814, 819 (7th Cir. 2024) (quoting *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006)). “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3).

Plaintiff's slip and fall claim is a state law claim, not a federal claim, which means that this court has jurisdiction over the case only if diversity jurisdiction exists under 28 U.S.C. § 1332. Under that statute, jurisdiction exists if (1) the amount in controversy exceeds \$75,000 and (2) the parties are of diverse citizenship, meaning that no plaintiff may be from the same state as any defendant. *Smart v. Local 702 Int'l Bhd. Of Elec. Workers*, 562 F.3d 798, 803 (7th Cir. 2009). Unless a complaint alleges complete diversity of citizenship among the parties and an amount in controversy exceeding \$75,000, the case must be dismissed for lack of jurisdiction. *Id.*

Here, plaintiff's allegations are insufficient to establish complete diversity. He lists "Best Western Hotel International, Inc." as a defendant, located in Arizona. Assuming that the company is incorporated and headquartered in Arizona, that would mean that its citizenship is diverse from plaintiff's, who is a citizen of Wisconsin.

However, it is likely that a local entity would be a necessary party to any negligence claim arising out of plaintiff's slip and fall. Plaintiff identifies the "Best Western Hotel" as a defendant in his complaint, which the court is assuming refers to the Wisconsin Dells hotel where plaintiff was injured. However, plaintiff does not identify the citizenship of the hotel and would need to do so before this case could proceed. If the local hotel is a citizen of Wisconsin, the parties would not be diverse and he would need to proceed with his claims in state court. In addition, plaintiff identifies "Jane Doe manager" as a defendant in the body of his complaint, and he states that the manager is located in Wisconsin Dells, Wisconsin. But plaintiff cannot proceed against the manager if she is a citizen of the same state as he is. Instead, he would need to refile this lawsuit in state court.

Because Petty's complaint does not include clear allegations establishing subject matter jurisdiction, the court will dismiss the case without prejudice. But the court will give Petty the opportunity to file an amended complaint that clearly identifies the citizenship of each party. If he files an amended complaint by the date below, the court will screen the complaint under § 1915(e).

ORDER

IT IS ORDERED that:

- 1) Plaintiff's complaint is DISMISSED without prejudice for lack of subject matter jurisdiction.
- 2) Plaintiff may until December 4, 2024 to file an amended complaint that clarifies which defendants he is suing and their citizenship, as explained above. If he fails to file an amended complaint by December 4, this case will be dismissed with prejudice.

Entered November 13, 2024.

BY THE COURT:

/s/

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WILLIAM M. CONLEY

District Judge